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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,988	09/24/2003	Donald E. Weder	8403.990	4227
30589	7590	01/12/2005	EXAMINER	
DUNLAP, CODDING & ROGERS P.C. PO BOX 16370 OKLAHOMA CITY, OK 73113			PALO, FRANCIS T	
			ART UNIT	PAPER NUMBER
			3644	

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/669,988

Applicant(s)

WEDER, DONALD E.

Examiner

Francis T. Palo

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15-27 and 29-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15-27 and 29-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/12/03 & 6/15/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

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DETAILED ACTION

Specification

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

The disclosure is objected to because of the following informalities:

Appropriate correction is required.

Paragraph [0001] should be updated to reflect the abandoned status of Application 10/301,467.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-13, 15-27 and 29-40 are rejected under 35 U.S.C. 102(b),
as being anticipated by Sumiyoshi (US 5,394,646) 1995.

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Regarding **claim-1**:

Sumiyoshi teaches both a system for automatic cultivating of crops and a method of accomplishing the same in a greenhouse, as disclosed in the first four paragraphs of the Summary of the Invention.

Sumiyoshi while teaching 'automatic cultivation of crops in a greenhouse', is silent as to the greenhouse size; however, given a reasonable interpretation consistent with the broad recitation "low profile greenhouse", and "having a height sufficiently short that prevents a grower of plants from physically entering the plant retaining space of the housing", the greenhouse of the Sumiyoshi system and methodology of cultivation is readable on a low profile greenhouse as cited.

Regarding **independent claim-16**:

The discussion above regarding claim-1 is relied upon.

The method for growing plants as cited is taught by Sumiyoshi:

Specifically, providing and disposing plants in the greenhouse is depicted in Figure-2; moving the plants to receive adequate exposure to light is disclosed at column-3, beginning at line-17; feeding and watering is disclosed at column-3, beginning at line-17; removing the plants from the greenhouse is disclosed in the first paragraph of

Background of the Invention.

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Regarding **independent claim-37**:

The discussions above regarding claims 1 and 16 are relied upon.

As discussed above, Sumiyoshi teaches both a system for automatic cultivating of crops and a method of accomplishing the same in a greenhouse; "a plant grown in a greenhouse" as cited, would be inherent to the system and method of Sumiyoshi.

Regarding **independent claim-39**:

The discussions above regarding claims 1, 16 and 37 are relied upon.

As discussed above, "a plant grown by a method" as cited, would be inherent to the system and method of Sumiyoshi.

Regarding repeating **claims 2 and 17**:

The discussions above regarding claims 1 and 16 are relied upon.

The greenhouse of Sumiyoshi is capable of the base configuration as cited.

Regarding repeating **claims 31 and 35**:

The discussions above regarding claims 1 and 16 are relied upon.

The greenhouse of Sumiyoshi is capable of having a bottom as cited.

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Regarding repeating **claims 3, 26 and 32:**

The discussions above regarding claims 1 and 16 are relied upon for the means for moving plants as cited in the instant claims.

Regarding repeating **claims 4 and 27:**

The discussions above regarding claims 1 and 16 are relied upon.

Figure-1 depicts openings through which the conveyor system of Figure-2 extends for entry and exit of plants as cited.

Regarding repeating **claims 4 and 27:**

The discussions above regarding claims 1 and 16 are relied upon.

The greenhouse of Sumiyoshi is capable of light transmitting as cited, as being inherent to plant production.

Regarding repeating **claim-6:**

The discussion above regarding claim-1 is relied upon.

The greenhouse of Sumiyoshi is capable of a closed upper end as cited, as inherent to the controlled environment method of Sumiyoshi.

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Regarding repeating **claims 7 and 19:**

The discussions above regarding claims 1 and 16 are relied upon.

Structure readable on a lid or door as cited, is depicted in Figure-1 at the left hand end of the greenhouse.

Regarding repeating **claims 8 and 20:**

The discussions above regarding claims 1 and 16 are relied upon.

Sumiyoshi teaches crop production under controlled environment in Figure-1 and the fourth paragraph of column-3; a sealed housing would be readable on a controlled environment method of production.

Regarding repeating **claims 9 and 21:**

The discussions above regarding claims 1 and 16 are relied upon.

The provision of an aperture as cited, is broadly depicted in the end wall of Figure-1, The depicted apertures of Sumiyoshi would allow natural ingress and exhaust of atmosphere as cited.

Regarding repeating **claims 10 and 22:**

The discussions above regarding claims 1 and 16 are relied upon.

The gas permeability limitation as cited, is encompassed by the preceding discussion regarding claims 9 and 21.

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Regarding repeating claims 11 and 24:

The discussions above regarding claims 1 and 16 are relied upon.

A liquid impermeable housing as cited, is encompassed by the discussion above regarding claims 8 and 20.

Regarding repeating claims 12 and 23:

The discussions above regarding claims 1 and 16 are relied upon.

A liquid impermeable housing as cited, is encompassed by the discussion above regarding claims 9 and 21.

Regarding repeating claims 13 and 25:

The discussions above regarding claims 1 and 16 are relied upon.

Sumiyoshi depicts lighting control (22) in Figure-1, readable on "artificial light source" as cited.

Regarding repeating claims 15 and 29:

The discussions above regarding claims 1 and 16 are relied upon.

The greenhouse of Sumiyoshi is capable of inflation as cited, in keeping with the controlled environment production of Sumiyoshi and the well-known practice of inflating the skin of conventional greenhouses for insulating purposed.

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Regarding repeating **claims 30, 38 and 40**:

The discussions above regarding independent claims 16, 37 and 39 are relied upon.

Sumiyoshi discloses cultivation of vegetables in the *Background Art*, as cited.

Regarding repeating **claims 33, 34 and 36**:

The discussions above regarding claims 1 and 16 are relied upon.

The discussion above regarding claims 4 and 27 is applicable to the instant claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Charney teaches conveyorized farming.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Francis T. Palo whose telephone number is 703-305-5595. The examiner can normally be reached on M-Tu.,Th.-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 703-305-7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Francis T. Palo

Francis T. Palo
Examiner
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